

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

RSA.No. 964 of 2003()

AS.19/2001 of SUB COURT, PAYYANNUR
OS.145/1997 of MUNSIF COURT, PAYYANNUR
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: APPELLANT/PETITIONER/APPELLANT.

VEMBIRICHI MADHAVI, D/O.MARATHAN,
RAMANTHALI AMSOM DESOM NOW RESDING AT
PUNNCHAKKAD, PAYYANNUR AMSOM DESOM, KANNUR DIST.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS: RESPONDENTS/RESPONDENTS

1. POYIRAN RAJASEKHARAN, S/O.BHAGEERATHI
AMMA DRIVER, 36 YEARS, CHERUVATHOOR AMSOM DESOM,
KASARAGOD DISTRICT.
2. KOYYAN KALIANI, D/O.MARATHANN, 73 YEARS,
PUNCHAKKAD, PAYYANNUR AMSOM DESOM, KANNUR DISTRICT
3. CHANDRAMATHI D/O.KOYYAN KALIANI,
TEACHER, PUNCHAKKAD, PAYYANNUR AMSOM DESOM,
KANNUR DISTRICT.
4. C.THAMBAN, H/O.CHANDRAMATHI 45 YEARS,
PUNCHAKKAD, PAYYANNUR AMSOM DESOM,
TALIPARAMBA TALUK, KANNUR DISTRICT.

BY

THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION
ON 05/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

M.SASIDHARAN NAMBIAR, J.

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R.S.A. NO. 964 OF 2003

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Dated this the 5th day of November, 2007

JUDGMENT

This appeal is filed challenging the dismissal of the first appeal as barred by time after dismissing the application filed under section 5 of the Limitation Act to condone the delay. Learned counsel appearing for appellant submitted that the order passed by the first appellate court dismissing the application filed under section 5 of the Limitation Act to condone the delay (I.A.170/2001 in A.S.19/2001) was set aside by this court in C.R.P.1681/ 2003 and first appellate court was directed to restore the appeal. Order in C.R.P.1681/2003 dated 6.2.2006 establish the submission. As the first appeal was dismissed as barred by time and as per order in C.R.P.1681/2003, that order was set aside and the appeal was restored and directed to be disposed afresh, the appeal does not survive and is dismissed.

M.SASIDHARAN NAMBIAR
JUDGE

tpl/-

M.SASIDHARAN NAMBIAR, J.

W.P.(C).NO. /06

JUDGMENT

SEPTEMBER,2006